

REMARKS

This Amendment is submitted simultaneously with filing of a Request for Continuing Examination.

In the last Office Action the Examiner rejected the claims under 35 USC 102(b) over the U.S. patent to Driggers.

At the same time it was indicated that Claims 22 and 23 were allowed. Also Claim 32 was rejected for formal aspects.

In connection with the Examiner's formal rejection of Claim 32, this claim has been amended, and it is believed that the grounds for this formal rejection should be considered as no longer tenable and should be withdrawn.

Claims 22 and 23, which were allowed by the Examiner, have been retained as they were.

After carefully considering the Examiner's grounds for rejection of the claims over the art, applicants amended Claims 11, 30, 31, 32 and submitted new independent Claim 33. The features of Claim 33 are originally disclosed on page 9, lines 14-16 of the application.

Turning now to the Examiner's rejection of the claims over the art, and in particular to the patent to Driggers, it is respectfully submitted that this reference discloses a flexible line trimmer (10) with a control handle (30) which comprises a body section (40) which is connected via a clamping member (62) to a shaft (16) of the trimmer (10) and a handgrip section (36) to control the trimmer (10). Due to a vibration damping member (60) vibrations from the shaft (16) are decoupled from the handgrip section (36) (see Driggers, figures 1 and 3 as well as column 4, line 14 to column 5, line 12). Moreover, the body section (40) comprises a collar (44) to provide a second connection to the shaft (16), wherein this connection is no clamping connection. Due to this connection the collar (44) and the whole body section (40) with the handgrip section (36) can be pivoted relative to the shaft (16) (see Driggers, figures 1 and 3 as well as column 5, lines 30 to 45).

The patent to Driggers lacks the feature that a safety element by which the handgrip section (36) is connected with the shaft (16) is movable during a predetermined working operation of the trimmer (10) relative to the handgrip section (36) in at least a tilting direction and a longitudinal direction. The Examiner interprets a clamping member (62) as a safety element. By sharing the Examiner's view the clamping member (62) is not movable during a working operation of the trimmer (10). Rather, the clamping member (62), as implied in the term "clamping" itself, clamps

the handgrip section (36) on the shaft (16) during a working operation of the trimmer (10) (see Driggers, column 6, lines 34 to 39). Only in an adjustment situation is the clamping member (62) released and the handle (30) can be axially and rotationally fixed to the shaft (16), thus the clamping member (62) locks the handle (30) on the shaft (16) (see Driggers, column 3, lines 39 to 43 and column 6, lines 27 to 33). Therefore, it would be rather disadvantageous if the clamping member (62) was movable during a working operation of the trimmer (10), because this would result in a loosened connection between the handle (30) and the shaft (16) and hence the trimmer (10) would not be properly manageable.

Moreover, since the clamping member (62) is rigidly connected to the shaft (16) during the use of the trimmer (10) as stated in column 6, lines 34 to 36 the clamping member (62) cannot avoid a passage of vibrations through the clamping member (62) as claimed in present claim 11, thus Driggers lacks this feature too. In addition, since the function of the clamping member (62) is to fasten the handle (30) to the shaft (16) the feature of avoiding a passage of vibration is no characteristic trait of the clamping member (62). To provide this feature embodied with the clamping member (62) would make no sense because it would disadvantageously weaken the fastening function of the clamping member (62).

Furthermore, the Driggers patent lacks the feature that the handgrip section (36) of the handle (30) as a whole is arranged coaxially with an axis (3) of the handle (30). As could be seen in figure 1 and as it is stated in column 2, lines 14 to 17, column 4, lines 39 to 42 and column 5, lines 19 to 26 the part of the handle (30) which is grasped by an operator's (32) hand (38) is the handgrip section (36). This handgrip section (36) is arranged perpendicular to a handle body (40) or the axis (3) of the handle (30). An arrangement of the handgrip section (36) coaxially with the axis (3) would be obstructive for an operator (32) because it would arrange the gripping part against a normal positioning of the hand (38) for an easy and comfortable working posture as shown in figure 1 of the Driggers patent.

Since neither the so called safety element nor the clamping member (62) respectively is arranged movably during a working operation of the trimmer (10), nor can it avoid a passage of vibrations to the shaft (16) nor is the handgrip section (36) arranged coaxially with the axis (3) of the handle (30) claim 11 cannot be considered as anticipated by the Driggers patent.

Furthermore, due to the above-stated reasons someone skilled in the art would not have gained any motivation out of the Driggers patent at the time the invention was made which would have led him to the inventive idea of new claim 11.

Thus, new claim 11 also cannot be considered as obvious from the Driggers patent.

The patent to Matechuk (US 5,605,500) discloses a sanding block (10) with a handle (24). To provide a flexible working tool the handle (24) is connected via a rod (22) to the sanding block (10) via a two axis universal joint with an axle (30), which could be tilted about two axes (32, 36) (see Matechuk, figure 1 and 4 as well as column 3, line 34 to column 4, line 26). Moreover, between the handle (24) and the sanding block (10) a bellows is fastened to provide a guidance for air led from the sanding region to a vacuum source (see Matechuk, figure 1 and column 5, lines 27 to 67).

The Matechuk patent lacks the feature that the handle (24) is mounted on a housing (46) by an elastic, vibration damping element. The term “mounted by” comprises that the handle (24) should be fastened via the elastic element, meaning that the elastic element is capable to brace or support the handle (24) due to its material properties and on its own. Moreover, an elastic, vibration damping element should have the properties of damping to fulfill the feature to avoid passages of vibrations. The Examiner interprets a flexible bellows (76) as an elastic element like it is claimed in present claim 11 and thus first, as a component which braces or supports the handle (24) and second, as a component which is able to

fulfill the function of damping. Since the bellows (76) is made of a low density plastic material, as it is stated in column 5, lines 53 to 58, it is not designed to have properties to brace or support the handle (24). During such a task the low density plastic material of the bellows (76) would be ripping and the connection between the handle (24) and the housing (46) would be disadvantageously destroyed.

Moreover, since the bellows (76) is designed to restrict an air passage for air, which transports dust through a hole in the handle (24) to a vacuum source (see Matechuk, figure 1 and column 5, lines 27 to 52), the bellows (76) is not intended to have the function of damping. Even if it is assumed that the bellows (76) damps a movement of the handle (24) it could not be seen how, because this damping could only act in an axial direction and an axial movement of the handle (24) is – in a mounted state and during a working operation of the sanding block (10) - not possible due to the fix axial arrangement of the handle (24) in respect to the sanding block (10) via the rod (22). Therefore, contrary to the Examiner's opinion, the bellows (76) is no elastic element which connects the handle (24) with the housing (46) and it is also not capable to be used as a damping element.

In addition, applicants disagree with the view of the Examiner that the rod (22) could be seen as a safety element which is

movable during a working operation of a sanding tool relative to the handle (24) or as the Examiner states relative to an extension (44) in at least a tilting direction and a longitudinal direction. The Examiner interprets the connection of the extension (44) to the handle (24) via threads (72) as a movement during a working process of the sanding tool in a tilting direction. As stated in column 4, lines 32 to 38 of Matechuk the extension (44) is used in case of a working process of the tool above shoulder height, thus a secure attachment of the extension (44) to the handle (24) is necessary and essential for a proper work result. In consequence, the connection (72) of the extension (44) to the handle (24) has to be firm for an efficient working sanding tool.

Moreover, as stated in column 4, lines 32 to 35 and column 5, lines 12 to 38 as well as it is shown in figure 2, an air flow is led through the handle (24) and the extension (44) to a hose (74) which is connected to a vacuum source. In case of a loose and movable connection of the extension (44) to the handle (24) the pressure of the vacuum flow would be disrupted in the area of the threads (72) and the air flow would not be possible. Thus, this arrangement would be against the functional principle of the sanding tool and in addition of the use of the sanding tool with a vacuum source, which is the main scope of the Matechuk patent.

Since the Matechuk patent neither discloses an elastic element by which the handle (24) is braced and supported on the housing (46) nor a damping element which damps an action of the handle (24) in an axial direction nor does it disclose that the rod (22) is movable during a working operation of the sanding block claim 11 cannot be considered as anticipated by the Matechuk patent.

Moreover, since no motivation is given, which would have led someone skilled in the art at a time the invention was made to change the features of the device of the Matechuk reference according to the above-mentioned reasons new claim 11 cannot be considered as obvious from the Matechuk patent.

Since neither Driggers nor Matechuk disclose a rigid safety element which is movable during a predetermined working operation of a tool relative to a gripping part in at least a tilting direction and a longitudinal direction to avoid a passage of vibrations through the safety element, someone skilled in the art would not get any motivation to use and construct such a safety element. Due to this, the present claim 11 can be considered as new and unobvious from a combination of the Driggers and the Matechuk patents.

Turning now to the Examiner's rejection of Claim 30, the Driggers patent discloses a handle (30) with a damping element (60) which is arranged circular around a shaft (16) and where a collar (42) of a body section (40) of the handle (30) is arranged around the damping element (60) (see Driggers, figure 3 and column 5, lines 46 to 53). Thus, two surfaces of the damping element (60), which are either connected to the gripping part or to the mounting part, are arranged in parallel to an axis (3) of the handle (30).

Since the surfaces of the damping element (60) which directly fix the damping element (60) to the collar (42) or the clamping element (62) are arranged in parallel to the axis (3) claim 30 cannot be considered as anticipated over the Driggers patent. Also no motivation is given, which would have led someone skilled in the art to do so. Thus, new claim 30 cannot be considered as obvious from the Driggers patent.

As the Matechuk reference discloses no damping element, someone skilled in the art would not have any motivation concerning the arrangement of surfaces of this not disclosed damping element. Even if the Examiner's opinion is followed, the bellows (76) has no surfaces which are arranged perpendicular in respect to an axis of the handle (24) and which directly fix the gripping part to the handle (24) or a flange (78). In addition, no motivation is given to choose such an orientation. As a result,

new claim 30 cannot be anticipated by or considered as obvious from the Matechuk patent.

In respect to claim 31, as stated in respect to claim 11 the Driggers reference does not disclose that the handgrip section (36) of the handle (30) has a main extension which is arranged coaxially with the axis (3) of the handle (30) as this is claimed in claim 31. Moreover, a coaxial arrangement would make no sense and thus, no one skilled in the art would even consider doing so. Thus, claim 31 cannot be anticipated by or considered as obvious from the Driggers patent.

In the patent to Matechuk the mounting part, embodied as flange (78), has no main extension which is arranged coaxially with an axis. Rather, the main extension is the diameter of the flange (78) and thus is arranged perpendicular in respect to the axis. Someone skilled in the art would not consider changing the dimension of the flange, because that would disadvantageously enlarge the device and in addition the stability of the arrangement. As a result, claim 31 cannot be anticipated by or considered as obvious from the Matechuk patent.

In connection with the Examiner's rejection of Claim 32, it should be stated that if the applicant shares the opinion of the Examiner and views the clamping member (62) as safety element the Driggers

patent does not disclose, that an area of the clamping member (62), which is oriented in parallel to the axis (3) and which overlaps with the elastic, vibration damping element (60), has a width, which is oriented perpendicular to the axis (3) and is three-times thinner than a width of the elastic, vibration damping element (60), wherein the width is oriented perpendicular to the axis (3). Rather, since the area which is oriented in parallel to the axis (3) and which overlaps with the elastic, vibration damping element (60) extends around the shaft (16) and is itself encircled by the elastic, vibration damping element (60), it has a width which is 0.75 times the width of the elastic, vibration damping element (60) and not of 0.33 as claimed in claim 32. Since the width of the shaft (16) is around 0.5 of the elastic, vibration damping element (60) it would not be possible to construct the clamping member (62) thinner without changing the whole construction of the device of the Driggers reference. Therefore, someone skilled in the art would not consider changing the dimension of the clamping element (62). Hence, claim 32 cannot be anticipated by or considered as obvious from the Driggers patent.

Also in the Matechuk patent, the rod (22), which the Examiner states as safety element, is wider than the width of the so called damping element (76). Thus, new claim 32 cannot be anticipated by or considered as obvious from the Matechuk patent.

Finally, as for new Claim 33, as mentioned in respect to claim 30 and could be seen in figure 3 of the patent to Driggers the surfaces of the damping element (60) which extend substantially perpendicular to the axis (3) of the handle (24) have no direct contact to either the handgrip section (36) or the shaft (16). Rather, the surfaces that connect the damping element (60) to the handgrip section (36) or the shaft (16) are arranged coaxially in respect to the axis (3). However, the surfaces which connect the handgrip section (36) and the shaft (16) are not injection molded to the handgrip section (36) and the shaft (16) and thus the damping element (60) is not fixedly connected by means of an injection molding process to the handgrip section (36) and the shaft (16). It would be even against the idea of the Driggers reference to injection mould the damping element (60) to the shaft (16) because one feature of the handle (30) and thus of the damping element (60) is to be mounted axially displaceable to adjust a position of the handle (30) e.g. for different operators. Thus, someone skilled in the art would not consider to fasten the damping element (60) by an injection molding process to the shaft. Therefore, claim 33 cannot be anticipated by or considered as obvious from the patent to Driggers.

Like in the reference to Driggers the patent to Matechuk does only disclose surfaces which connect the flange (78) and the handle (24) that are oriented coaxially in respect to an axis of the handle. In

addition, there is no disclosure referring to an injection molding of the so called damping element (76) to the flange (78) or the handle (24). Thus, someone skilled in the art could not get any motivation out of the Matechuk reference which would have led him to the inventive idea of the new claim 33. Hence, new claim 33 cannot be anticipated by or considered as obvious from the Matechuk patent.

No features of claims 30 to 33 could be gained out of any combination of the Driggers and the Matechuk reference. Thus, these claims are also unobvious from any combination of the Driggers and the Matechuk patents.

It is therefore believed to be clear that the above-mentioned independent claims should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend directly or indirectly on Claim 11, they share its allowable features, and they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,
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